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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/752,072	12/29/2000	Shlomi Harif	AUS9000879US1	2044
35617	7590	07/28/2005	EXAMINER	
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AUSTIN, TX 78768			ART UNIT	PAPER NUMBER
			3621	

DATE MAILED: 07/28/2005

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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 09/752,072

Filing Date: December 29, 2000

Appellant(s): HARIF, SHLOMI

Kevin L. Daffer
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed on April 11, 2005.

(1) *Real party in interest.*

A statement identifying the real party in interest is contained in the brief.

(2) *Related appeals and interferences.*

A statement identifying that no related appeals and interferences which will directly affect or be directly affected by or have a bearing on the decision in the pending appeal is contained in the brief.

(3) *Status of claims.*

The statement of the status of the claims contained in the brief is correct.

(4) *Status of Amendments.*

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) *Summary of Claimed Subject Matter.*

The summary of invention contained in the brief is correct.

(6) *Grounds of rejection to be reviewed on appeal.*

The appellant's statement of the issues in the brief is correct.

(7) *Claims appendix.*

The copy of the appealed claims contained in the (viii) Claims appendix to the brief is correct.

(8) *Evidence appendix.*

An appendix containing copies and a statement setting forth any evidence submitted in the (ix) Evidence appendix to the brief is correct.

(9) *Related proceedings appendix.*

An appendix containing copies of decisions rendered by a court or the Board in any proceeding is identified in the (x) Related proceedings appendix to the brief.

(10) *Prior art of record.*

Semret, N. et al., Method and System for Market Based Resource Allocation, US Patent Publication, 2003/0101124 A1 (May 29, 2003), drawing sheets 1-38, pp. 1-71. Related to provisional application no. 60/203,849 filed May 12, 2000, pp. 1-402.

(11) *Grounds of rejection.*

The following ground(s) of rejection are applicable to the appealed claims:

Claims 1-30 are rejected under 35 U.S.C. §102(e) as being anticipated by Semret et al. (hereinafter Semret), US Patent Application Publication 2003/0101124 A1. This rejection is set forth in a prior Office Action, mailed on November 10, 2004.

As per claim 1, Semret discloses a system for bidding for a process execution over a heterogeneous network, said system comprising a network server adapted to receive a payload over the heterogeneous network from a network client, wherein the payload comprises specifications for a process execution associated with a task, wherein the server is further adapted to simulate the process execution, and provide a bid solicitation for the process execution by estimating computing resources required to carry out the process execution associated with the task, and provide a bid solicitation for the process execution from a network host (see figure 1 and associated text; ¶10-13, 34-35).

As per claim 2, the system of claim 1, Semret discloses a financial resolution center (fig 8 and associated text).

As per claim 3, the system of claim 1, Semret discloses the heterogeneous network comprises a network of computational devices (figures 1,2 and associated text).

As per claim 4, the system of claim 1, Semret discloses the heterogeneous network is absent information sent there across for maintaining secure access thereto (§95).

As per claim 5, the system of claim 3, Semret discloses the network of computational devices comprises a network of multiple platforms (§82-85).

As per claim 6, the system of claim 1, Semret discloses the payload is encrypted (§95).

As per claim 7, the system of claim 1, Semret discloses the bid solicitation is encrypted (figure 9a, b and associated text; §95).

As per claim 8, the system of claim 1, Semret discloses a system as recited in claim 1, wherein providing a bid solicitation comprises providing a process simulation data set (figures 19, 20 and associated text).

As per claim 9, the system of claim 2, Semret discloses the network server is further adapted to receive a bid for the process execution (figure 9b and associated text; §10).

As per claim 10, the system of claim 9, Semret discloses the network server is further adapted to validate the bid with the financial resolution center (figure 8 and associated text; §34-45).

As per claim 11, the system of claim 10, Semret discloses the network server is further adapted to evaluate the bids (figures 6a, b and associated text).

As per claim 12, the system of claim 11, Semret discloses evaluating the bids comprises mediating negotiations between the network host and the network client, wherein the negotiations relate to the process execution (§98).

As per claim 13, the system of claim 12, Semret discloses the network server is further adapted to maintain confidentiality as to the identity of the network client and the network host (§95; figure 15a-r and associated text).

Claims 14-28 are directed to a method of the above system and claims 29-30 are directed to a computer-readable medium of the above system and are therefore rejected as above.

Examiner has pointed out particular references contained in the prior arts of record in the body of this action for the convenience of the applicant. Although the specified citations are representative of the teachings in the art and are applied to the specific limitations within the individual claim, other passages and figures may apply as well. It is respectfully requested from the applicant, in preparing the response, to consider fully the entire references as potentially teaching all or part of the claimed invention, as well as the context of the passage as taught by the prior arts or disclosed by the examiner.

(12) Response to argument.

A. Anticipation of Claims 1-13

- 1. Semret clearly anticipates a system in which a network server solicits a bid from a network host for a client requested process execution by utilizing various programs to implement functions of each computational device.**

Appellant argues, “Semret fails to teach the solicitation of a resource bid among any of the agents (Appellant’s brief at 3).” Furthermore, Appellant contends there is no teaching or suggestion within Semret to solicit bids from a network host by an agent that is distinct and different from the agent requesting the resource. Id. “Rather, [appellant contends], Semret merely teaches software player agent 102 placing bids to resource agent 104.” Id.

On the contrary, Semret teaches a comprehensive and dynamic real-time bidding system wherein resource agents run within servers on a network to negotiate and facilitate process execution requests between player agents (buyers and sellers) [0010, 0038-0045]. Appellant's specification provides that agents on network servers are propagated to solicit bids from network hosts (computational devices) based on the resource characteristics and constraints of the agent or task (specification page 30, lines 10-26).” Bid solicitation, can be accomplished in a variety of ways depending on the auction mechanism. Id. For example, in appellant's open bid system, the network server provides a bid solicitation by allowing hosts capable of providing the requested process execution "to see the bid history." Id.

Likewise, Semret's network server is configured to conduct bidding by propagating resource agents to apply predefined auction allocation rules for providing a bid solicitation from seller agents in order to ultimately facilitate a buyer agent process execution request [0074-0075]. Similar to appellant's open bid solicitation, buyer agent bids are posted on a bid-list (illustrated in figures 13(a)-13(c) and solicited to sellers (Figures 15(q) “Bid Canvas” and 15(r) “Bid Table”). Since a bidding system protocol, including the manner of bid solicitation depends on the market auction method applied, Semret anticipates, teaches and claims the use of various auction systems in implementing a resource allocation bidding system ([0040], p. 70 claims 12-17).

Accordingly, Semret clearly anticipates a network server configured to solicit bids from a host or seller for a process execution request from a buyer or client. In fact, Semret's dynamic market based resource allocation system is much more comprehensive than merely providing a bid solicitation for a process execution request.

2. Semret clearly discloses a network service adapted to simulate a process execution client request in order to facilitate a real-time market auction.

Appellant contends "[t]here is no teaching or suggestion of simulating a process execution associated with a requested resource by any of the agents taught in Semret (Appellant's brief at 4)."

On the contrary, Semret anticipates that process execution requests for limited resources, such as bandwidth, buffer space, memory space, storage, or processor time in a highly competitive environment necessitate a simulating pricing mechanism [0009, 0012, 0079]. In fact, in Section 4.4 titled "Simulations," Semret illustrates a process execution bid request for bandwidth occurring at "10X real-time speed" for determining pricing due to the constant change and demand of network traffic (pp.57-62).

Furthermore, Appellant argues, "[i]n particular, resource agent 104 merely analyzes bid offers received from player agents and decides the allocation of the resource among the player agents based on the bid offers. (Appellant's brief at 4)."

At the outset, the examiner submits that Appellant's claims merely describe functions attributed to the network server, rather than the specific agent carrying out the simulation process. More importantly, however, the resource agent in Semret functions as an intermediary auctioneer on the network server configured to conduct bidding and allocate resources based on market demand strategy and valuation rules embedded in the player agent requests [0038-0040, 0079, figures 15(i)-15(l)]. Similarly, Appellant discloses that to create an agent, the network server binds the process execution request with a bus, thus creating a computing robot or agent (specification p. 26, line 22 to p. 27, line 8). Thus, similar to Semret, Appellant's newly created

Art Unit: 3621

agent with the embedded process execution request and predefined rules is propagated on the network server to simulate and estimate the required resources (specification p. 28, line 25 – p. 29, line 14).

3. Semret clearly discloses a network server configured to estimate computing resources required to carry out the process execution in order to determine allocation of resources based on market demand and buyer needs.

Appellant argues that "[t]here is no teaching or suggestion of estimating computing resources required to carry out a process execution with a requested resource by any one of the agents taught in Semret (Appellant's brief at 5).

The examiner notes that Appellant's claim 1 merely further defines the simulation function above "by estimating computer resources required to carry out the process execution associated with the task." Although the examiner's response above addresses Appellant's argument, the following example in Semret will clearly demonstrate this position.

In the bandwidth process execution example of Figure 15(j), the "web valuation attempts to translate a content hosting business need into bandwidth and price requirements." Therefore, depending on the elastic demand (Figure 15k) or inelastic demand (Figure 15l) model, the agent simulates and estimates the resources required to carry out the task by either using historical bandwidth usage data or doing a reverse calculation to determine how to obtain the maximum amount of required bandwidth within the budget line. Semret's market based bidding resource allocation system clearly implements a simulation and estimation mechanism via agents running within servers configured to negotiate and facilitate best solution process executions within time and resource dependent variables, as claimed by Appellant.

B. Anticipation of Claims 14-28

Appellant relies on arguments as noted above (Appellant's brief at 5-6). The examiner, similarly, relies on responses referenced above.

C. Anticipation of Claims 29-30

Appellant relies on arguments as noted above (Appellant's brief at 6-7). The examiner, similarly, relies on responses referenced above.

Art Unit: 3621

For the above reasons, it is respectfully requested that the rejection should be sustained.

bbb

July 25, 2005

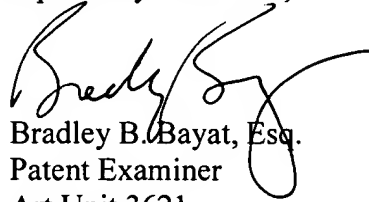
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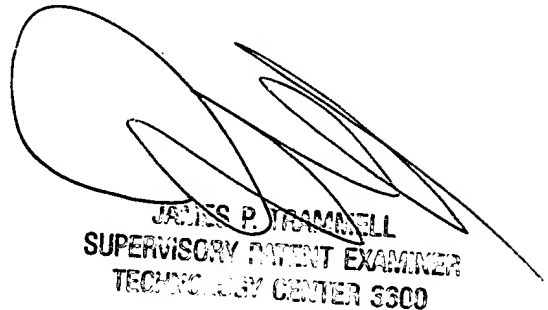
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